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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA Commercial Mortgage Company,

USA Capital Realty Advisors, LLC,¹

USA Capital Diversified Trust Deed Fund,
LLC,

USA Capital First Trust Deed Fund, LLC,²

USA Securities, LLC,³

Debtors.

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR¹
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR²
Case No. BK-S-06-10729-LBR³

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**STATUS AND AGENDA FOR
JANUARY 22, 2009 HEARINGS**

Hearing Date: January 22, 2009
Hearing Time: 9:30 a.m.
10:30 a.m.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☒ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Agenda for 9:30 a.m.

1. **Motion to Quash Subpoenas and or for Protective Order; Objection to Notices of 2004 Examination with Certificate of Mailing:** 06-10725-lbr, USA Commercial Mortgage Company, Chapter 11

¹ This bankruptcy case was closed on September 23, 2008.

² This bankruptcy case was closed on October 12, 2007.

³ This bankruptcy case was closed on December 21, 2007.

Motion Filed: Motion to Quash *Subpoenas and or for Protective Order;*
4/10/08 *Objection to Notices of 2004 Examination with Certificate of*
Mailing Filed by SUSAN WILLIAMS SCANN on behalf of
ROBERT A. RUSSELL [DE 6176]

Stipulated Stipulated Withdrawal of Objection to Notices of 2004
Withdrawal Examinations Motion to Quash Subpoenas and For Protective
1/16/09 Order and Motion For Limitation of rule 2004 Examinations
without Prejudice [DE 6757]

Status

2. **Motion to Release Funds From Court Registry:** 06-01146-lbr, USA
Commercial Mortgage Company v. Wells Fargo Bank, N.A. et al

Motion Filed: Motion to Release Funds from Court Registry *and Certificate of*
11/12/2008 *Service* Filed by JOHN HINDERAKER on behalf of USACM
LIQUIDATING TRUST [DE 169]

Notice Notice of Perfection of Attorney's Lien filed by Milbank Tweed,
1/6/09 Hadley & McCloy, LLP [DE 177]

Response Response to Motion for Release of \$100,000 Held in Court
1/15/09 Registry filed by Milbank, Tweed, Hadley & McCloy, former
Counsel to Compass Partners, LLC [DE 181]

Status Continued from 12/16/08. Counsel is ready to proceed with the
hearing.

3. **First Omnibus Objection of USACM Trust to Proofs of Claim Based**
Upon Investments in Preserve at Galleria, LLC Loan: 06-10725-lbr, USA
Commercial Mortgage Company, Chapter 11

Objection Filed: *First Omnibus Objection of USACM Trust to Proofs of Claim*
12/03/08 *Based Upon Investment in Preserve at Galleria, LLC Loan* filed
by JOHN HINDERAKER on behalf of USACM LIQUIDATING
TRUST [DE 6637]

Status No response filed

4. **Second Omnibus Objection of USACM Trust to Proofs of Claim Based, in Whole or In Part, Upon Investment in Preserve at Galleria, LLC Loan:** 06-10725-lbr, USA Commercial Mortgage Company, Chapter 11

Objection Filed: *Second Omnibus Objection of USACM Trust to Proofs of Claim Based, In Whole or In Part, Upon Investment in Preserve at Galleria, LLC Loan* filed by JOHN HINDERAKER on behalf of USACM LIQUIDATING TRUST [DE 6639]
12/03/08

Status No response filed

5. **Third Omnibus Objection of USACM Trust to Proofs of Claim Based, In Whole or In Part, Upon Investment in Preserve at Galleria, LLC Loan:** 06-10725-lbr, USA Commercial Mortgage Company, Chapter 11

Objection Filed: *Third Omnibus Objection of USACM Trust to Proofs of Claim Based, In Whole or In Part, Upon Investment in Preserve at Galleria, LLC Loan* filed by JOHN HINDERAKER on behalf of USACM LIQUIDATING TRUST [DE 6641]
12/03/08

Status No response filed

6. **Scheduling Conference:** 06-01146-lbr, USA Commercial Mortgage Company v. Wells Fargo Bank, N.A. et al

Order filed: Order Re Scheduling Conference. Scheduling Conference scheduled for 1/22/2009 at 09:30 AM at LBR-Courtroom 1, Foley Federal Bldg. [DE 174]
12/17/08

Status Counsel is prepared to inform the Court on the progress toward resolving the interpleader action.

7. **Motion to Compel Defendant to Respond to Interrogatories and Requests for Production with Certificate of Service:** 08-01127-lbr USACM Liquidating Trust v. Amesburyport Corporation

Motion Filed: *Motion to Compel Motion to Compel Defendant to Respond to Interrogatories and Requests for Production with Certificate of Service* Filed by ERIC D. MADDEN on behalf of USACM LIQUIDATING TRUST [DE 14]
12/30/08

Motion Joint Motion To Stay *Joint Request to Stay Discovery Deadlines Pending Settlement Discussions and Informal Discovery* Filed by ERIC D. MADDEN on behalf of AMESBURYPORT CORPORATION, USACM LIQUIDATING TRUST (MADDEN, ERIC) [DE 16]

1/16/09

Notice Notice of Withdrawal of *USACM LIQUIDATING TRUST'S Motion to Compel Defendant to Respond to Interrogatories and Requests for Production with Certificate of Service* Filed by ERIC D. MADDEN on behalf of USACM LIQUIDATING TRUST (Related document(s) [14](#) Motion to Compel filed by Plaintiff USACM LIQUIDATING TRUST.)(MADDEN, ERIC) (Entered: 01/16/2009)

1/16/09

Status The motion has been withdrawn. Hearing may be vacated.

8. **Motion to File Amended Complaint:** 08-01135-lbr USACM Liquidating Trust et al v. Wells Fargo Bank, N.A.

11/25/08 Motion to Compel *Arbitration and Dismiss, or Alternatively, Stay Proceedings Pending Arbitration* Filed by MICHAEL W. O'DONNELL on behalf of WELLS FARGO BANK, N.A. (O'DONNELL, MICHAEL) (Entered: 11/25/2008)

Motion

Motion Filed: Motion to File Amended Complaint Filed by LISA TSAI on behalf of USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC, USA CAPITAL FIRST TRUST DEED FUND, LLC, USACM LIQUIDATING TRUST [DE 89]

12/23/08

Stipulation Filed: Agreed Stipulation By WELLS FARGO BANK, N.A. and Between *USACM LIQUIDATING TRUST, USA CAPITAL FIRST TRUST DEED FUND, LLC AND USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC to Enlarge Briefing Schedule on Plaintiffs' Motion for Leave to File First Amended Complaint and Proposed Order* Filed by STEVE A. PEIRCE on behalf of WELLS FARGO BANK, N.A. [DE 91]

12/30/08

Stipulation Agreed Stipulation By WELLS FARGO BANK, N.A. and Between USACM Liquidating Trust, USA Capital First Trust Deed Fund, LLC and USA Capital Diversified Trust Deed Fund LLC *Concerning Items at Docket Nos. 79 and 89 And Proposed Order* Filed by STEVE A. PEIRCE on behalf of WELLS FARGO BANK, N.A.

1/14/09

Status If the order is entered approving the stipulation, the hearing may be vacated

9. **Objection to Claim 10725-02575 of Augustine Tuffanelli Family Trust in the amount of \$100,000.00 with Certificate of Service:** 06-10725-lbr, USA Commercial Mortgage Company, Chapter 11

Objection Filed: 12/04/08 Objection to Claim 10725-02575 of Augustine Tuffanelli Family Trust in the amount of \$100,000.00 with Certificate of Service filed by ROB CHARLES on behalf of USACM LIQUIDATING TRUST [DE 6651]

Status No response filed

10. **Application to Further Extend Deadline to File Objection to Allowance of Claims:** 06-10725-lbr, USA Commercial Mortgage Company, Chapter 11

Application Filed: 12/22/08 Application to Further Extend Deadline to File Objection to Allowance of Claims Filed by JOHN HINDERAKER on behalf of USACM LIQUIDATING TRUST [DE 6679]

Status No response filed

11. **Motion to File Amended Complaint:** 08-01125-lbr USACM Liquidating Trust v. Eagle Ranch, LLC et al

Motion Filed: 11/25/08 Motion for Leave to File First Amended Complaint Filed by STEPHEN T LODEN on behalf of USACM LIQUIDATING TRUST [DE 55]

Opposition Filed: 12/15/08 Opposition with Certificate of Service (*Opposition of Anthony Monaco, Susan K. Monaco and Monaco Diversified Corporation to USACM Liquidating Trust's Motion for Leave to File First Amended Complaint*) Filed by RICHARD F. HOLLEY on behalf of ANTHONY MONACO, SUSAN K MONACO, MONACO DIVERSIFIED CORPORATION [DE 58]

Declaration Filed: Declaration Of: KAVITA GUPTA *in Support of Opposition of Anthony Monaco, Susan K. Monaco and Monaco Diversified Corporation to USACM Liquidating Trusts's Motion for Leave to File First Amended Complaint with Certificate of Service* Filed by RICHARD F. HOLLEY on behalf of ANTHONY MONACO, SUSAN K MONACO, MONACO DIVERSIFIED CORPORATION [DE 59]
12/15/08

Declaration Filed: Declaration Of: ANTHONY MONACO *in Support of Opposition of Anthony Monaco, Susan K. Monaco and Monaco Diversified Corporation to USACM Liquidating Trusts's Motion for Leave to File First Amended Complaint with Certificate of Service* Filed by RICHARD F. HOLLEY on behalf of ANTHONY MONACO, SUSAN K MONACO, MONACO DIVERSIFIED CORPORATION [DE 60]
12/15/08

Reply filed Reply to Opposition of Anthony Monaco, Susan K. Monaco and Monaco Diversified Corporation to USACM Liquidating Trust's Motion for Leave to File First Amended Complaint Filed by Special Litigation Counsel for USACM Liquidating Trust [DE 66]
1/14/09

Status Counsel is ready to proceed.

Agenda for 10:30 a.m.

1. **Motion to Dismiss Case:** Adv. 08-1121-lbr, USACM Liquidating Trust v. Fertitta Enterprises, Inc.

Motion to Dismiss Filed: Motion to Dismiss Case Filed by MATTHEW C. ZIRZOW on behalf of FERTITTA ENTERPRISES, INC. [DE 17]
9/24/08

Notice of Hearing Filed: Notice of Hearing with Certificate of Service . Hearing scheduled 11/18/2008 at 10:30 AM at LBR-Courtroom 1, Foley Federal Bldg.. Filed by MICHAEL YODER on behalf of USACM LIQUIDATING TRUST [DE 29]
10/17/08

Status Counsel is negotiating a withdrawal of the motion to dismiss

2. **Scheduling Conference:** Adv. 08-01121-lbr, USACM Liquidating Trust v. Fertitta Enterprises, Inc.

Order Filed: 11/20/08 Order Re Scheduling Conference. Scheduling Conference scheduled for 1/22/2009 at 10:30 AM at LBR-Courtroom 1, Foley Federal Bldg. [DE 37]

Status

3. **Status Hearing re Second Amended Complaint:** Adv. 08-01123-lbf, USACM Liquidating Trust v. Fiesta Development, Inc. et al

Order Filed: 11/24/08 Order Setting Status Hearing. Status hearing to be held on 1/22/2009 at 10:30 AM at LBR-Courtroom 1, Foley Federal Bldg..Settlement Conference scheduled for 1/20/2009 at 09:30 AM at LBR-Courtroom 1, Foley Federal Bldg. [DE 30]

Order Filed: 11/24/08 Order Establishing Procedures for Judicial Settlement Conference [DE 33]

Status Counsel is ready to proceed.

4. **Status Hearing re Second Amended Complaint:** Adv. 06-01256-lbr, USA Commercial Mortgage Company et al v. Reale et al

Order Filed: 12/17/08 Order Continuing Status Hearing. Status hearing to be held on 1/22/2009 at 10:30 AM at LBR-Courtroom 1, Foley Federal Bldg. [DE 416]

Status

5. **Scheduling Conference:** Adv. 08-01120-lbr, USACM Liquidating Trust v. Gentile De Palma Ltd. et al

Order Filed: 12/17/08 Order Re Scheduling Conference. Scheduling Conference scheduled for 1/22/2009 at 10:30 AM at LBR-Courtroom 1, Foley Federal Bldg. [DE 16]

Status Counsel is finalizing a settlement agreement.

1 6. **Status Hearing:** Adv. 06-01167-lbr, USA Commercial Mortgage Company
2 v. Robert J. Kehl et al

3 **Order Filed:** Order Setting Status. Status hearing to be held on 1/22/2009 at
4 12/17/08 10:30 AM at LBR-Courtroom 1, Foley Federal Bldg [DE 362]

5 **Status** This is the Kehl's request for allowance of their unsecured claims.
6 Counsel have agreed that the claim may be addressed on a loan by
 loan basis, making scheduling orders in the adversary premature.

7 7. **Status Hearing:** Adv. 08-01132-lbr, USA Capital Diversified Trust Deed
8 Fund v. Fulton

9 **Order Filed:** Order Setting Status Hearing. Status hearing to be held on
10 12/16/08 1/22/2009 at 10:30 AM at LBR-Courtroom 1, Foley Federal Bldg.
11 [DE 18]

12 **Status** Counsel are ready to proceed.

13 Dated January 20, 2009.

14 **LEWIS AND ROCA LLP**

15 By: /s/ RC (#6593)
16 Susan M. Freeman, AZ 4199 (*pro hac vice*)
17 Rob Charles, NV 6593
18 John Hinderaker, AZ 18024 (*pro hac vice*)
 Counsel for USACM Liquidating Trust

19 **PROOF OF SERVICE**

20 COPY of the aforementioned sent via e-
21 mail or U.S. First Class Mail on January
22 20, 2009 to the parties listed on Post-
 Effective Official Service List for Limited
 Notice No. 4 Dated January 8, 2008.

23 /s/ Carrie Lawrence
24 Carrie Lawrence
25 Lewis and Roca LLP
26